

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SENAD CIBRALIC and SABAHEETA)	
CIBRALIC, his wife,)	
)	CIVIL ACTION NO. _____
Plaintiffs,)	
)	JUDGE _____
v.)	
)	
TW METALS, INC. [sic.])	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant TW Metals, LLC, (“TW Metals”) improperly sued as “TW Metals, Inc.”, by and through its undersigned counsel, hereby give notice that this action is removed from the Court of Common Pleas of Erie County, Pennsylvania, where it was docketed at civil case number 11881-2020. The grounds for removal are set forth below.

1. Plaintiffs filed their Complaint in this action in the Court of Common Pleas of Erie County on September 16, 2020. *See* Exhibit A for true and correct copy of the filed Complaint. There is one named defendant.

2. TW Metals executed and returned an Acceptance of Service on October 15, 2020.

3. Diversity jurisdiction provides a basis for removal to this Court. *See* 28 U.S.C. §§ 1332; 1441(b); 1446.

4. Upon information and belief, and according to Paragraph 1 of their Complaint, Plaintiffs are adult individuals who are citizens of the Commonwealth of Pennsylvania. *See, e.g.*, Complaint, ¶1.

5. Plaintiffs' Complaint alleges that Plaintiff Senad Sibralic sustained an injury on July 24, 2019, at a facility located at 235 Tubeway Drive, Carol Stream, Illinois.

6. Plaintiffs allege that this facility was owned and operated by "TW Metals, Inc.," but in fact, the entity that owns and operates the facility in Carol Stream, Illinois where Plaintiff alleges to have sustained an injury is TW Metals, LLC. *See, e.g.*, Declaration of Ron Travis, attached hereto as Exhibit B ¶3.

7. The citizenship of partnerships and other incorporated associations, such as a limited liability corporation ("LLC"), is determined by the citizenship of its partners or members. *See, e.g., Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 420 (3d Cir. 2010).

8. TW Metals, LLC is a single-member LLC. Its sole member is O'Neal Industries, Inc., a Delaware corporation with its principle place of business in Birmingham, Alabama. *See* Exhibit B ¶¶ 5-6. Thus, for diversity purposes, TW Metals, LLC is a citizen of Delaware and Alabama. *See Zambelli Fireworks*, 592 F.3d at 420.

9. Diversity exists because the two Plaintiffs are citizens of Pennsylvania and the sole Defendant is a citizen of Delaware and Alabama.

10. Upon information and belief, the amount in controversy exceeds the jurisdictional requirement of \$75,000, exclusive of costs and interest. *See* Exhibit A, Complaint, ¶¶39-40, 45-46, 49.

11. In this Circuit, removal is appropriate so long as it is not “a legal certainty” that the plaintiff is unable to satisfy the amount-in-controversy requirement. *Auto-Owners Ins. Co. v. Stevens & Ricci, Inc.*, 835 F.3d 388 (3d Cir. 2016). “[T]he question whether a plaintiff’s claims pass the ‘legal certainty’ standard is a threshold matter that should involve the court in only minimal scrutiny of the plaintiff’s claims.” *Id.* (quoting *Suber v. Chrysler Corp.*, 104 F.3d 578, 583 (3d Cir. 1997)).

12. While Defendant does not believe Plaintiffs will be able to prevail on their claim of improper conduct or establish their entitlement to damages (and Defendant reserves its right to challenge both), it cannot be said at this juncture to a legal certainty that Plaintiffs cannot recover more than \$75,000 should they prevail on all of their allegations.

13. Accordingly, diversity jurisdiction exists, and this action has been removed properly.

14. Copies of all pleadings in the state court are attached to this notice as required by 28 U.S.C. § 1446. *See* Exhibit A.

15. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit was pending is located within this district.

16. Written notice of the filing of this Notice of Removal has been given to the adverse party in accordance with 28 U.S.C. § 1446(d) and as noted in the attached Certificate of Service.

17. Promptly after filing with this Honorable Court, a copy of this Notice of Removal will be filed with the Court of Common Pleas of Erie County, Pennsylvania in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, notice is given that this action has been removed to this Court.

Respectfully submitted:

Dated: November 4, 2020

/s/ Jeremy A. Mercer

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